

HOLLAND & HART LLP
9555 HILLWOOD DRIVE, 2ND FLOOR
LAS VEGAS, NV 89134

Robert J. Cassity
Nevada Bar No. 9779
Erica C. Medley
Nevada Bar No. 13959
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: 702.669.4600
Fax: 702.669.4650
bcassity@hollandhart.com
ecmedley@hollandhart.com

Matthew J. Mertens (*Pro Hac Vice forthcoming*)
PERKINS COIE LLP
1120 N.W. Couch Street Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2199
Fax 503.346.2199
MMertens@perkinscoie.com

David A. Perez (*Pro Hac Vice forthcoming*)
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.6767
Fax: 206.359.7767
DPerez@perkinscoie.com

Attorneys for Defendants
Jeff Moss and DEF CON Communications, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CHRISTOPHER J. HADNAGY, an individual;
and SOCIAL-ENGINEER, LLC, a
Pennsylvania limited liability company,

Plaintiffs,

v.

JEFF MOSS, an individual; DEF CON
COMMUNICATIONS, INC., a Washington
corporation; and DOES 1-10; and ROE
ENTITIES 1-10, inclusive,

Defendants.

Case No.:
District Court No.: A-23-875618-C

**DEFENDANTS JEFF MOSS AND DEF
CON COMMUNICATIONS, INC.'S
NOTICE OF REMOVAL**

Defendants Jeff Moss and Def Con Communications, Inc. ("Defendants"), by and
through their counsel of record, file this Notice of Removal pursuant to and 28 U.S.C. §§ 1332,
1441, and 1446 to effect the removal of the above-captioned action, which was commenced in

the Eighth Judicial District Court of the State of Nevada in and for the County of Clark, and states that the removal is proper for the reasons stated below.

BACKGROUND

1. On August 9, 2023, Plaintiffs Christopher J. Hadnagy and Social-Engineer, LLC (“Plaintiffs”) filed a Complaint in the Eighth Judicial District Court of the State of Nevada in and for the County of Clark, Case No. A-23-875618-C, titled “*Christopher J. Hadnagy et al. v. Jeff Moss et al.*” (the “Action”). The allegations of the Complaint in the Action are incorporated by reference in this Notice of Removal without necessarily admitting any of them. A true and correct copy of the Complaint is attached as **Exhibit A**.

2. The Complaint asserts seven causes of action: (1) Defamation, (2) Business Disparagement, (3) Intentional Interference with Contractual Relations, (4) Intentional Interference with Prospective Economic Advantage, (5) Unjust Enrichment, and (6) Quantum Meruit, (7) Injunctive Relief.

3. As explained below, the United States District Court for the District of Nevada has jurisdiction over this action under 28 U.S.C. § 1332(a) because there is diversity of citizenship between Plaintiffs and each of the Defendants, and the amount in controversy exceeds \$75,000.

DIVERSITY OF CITIZENSHIP

4. Plaintiffs’ Citizenship. Per the allegations of the Complaint, Plaintiff Christopher Hadnagy is a citizen of the State of Florida, and Plaintiff Social-Engineer, LLC is a Pennsylvania limited liability company, having its principal place of business in the State of Pennsylvania. Compl. ¶¶ 13–14. A limited liability company is deemed a citizen of every state of which its members are citizens. *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Information regarding the citizenship of Plaintiff Social-Engineer, LLC’s member(s) is not publicly available. Defendants accordingly state that on information and belief, none of Plaintiff Social-Engineer, LLC’s member(s) is a citizen of Washington. *See Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1087 (9th Cir. 2014) (appropriate to simply allege on

1 information and belief that an LLC's members are "diverse to" a defendant when the LLC's
2 membership is not publicly available).

3 5. Defendants' Citizenship. Defendant Jeff Moss is a citizen of the State of
4 Washington. Compl. ¶ 16; *see also Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir.
5 2001). Defendant Def Con Communications, Inc. is a corporation¹ organized under the laws of
6 the State of Washington, having its principal place of business in the State of Washington. A
7 corporation's citizenship includes the state of its principal place of business and the state of
8 incorporation. *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). Accordingly, Defendants are
9 citizens of Washington. As such, no Defendant is a citizen of any state or territory in which
10 Plaintiffs are a citizen.

11 6. Doe and Roe Defendants' Citizenship. The citizenship of fictitious defendants is
12 disregarded for purposes of establishing removal jurisdiction under 28 U.S.C. § 1332. *See* 28
13 U.S.C. § 1441(a); *see also Bryant v. Ford Motor Co.*, 886 F.2d 1526 (9th Cir. 1989), *cert. denied*,
14 493 U.S. 1076 (1990).

15 AMOUNT IN CONTROVERSY

16 7. In considering the amount in controversy, what matters is the amount put in
17 controversy by a plaintiff's complaint, not what amount the defendant will actually owe (if
18 anything). "[T]he amount in controversy is simply an estimate of the total amount in dispute,
19 not a prospective assessment of defendant's liability." *Lewis v. Verizon Commc'ns, Inc.*, 627
20 F.3d 395, 400 (9th Cir. 2010).

21 8. On the face of the Complaint, Plaintiffs seek damages in excess of \$75,000.
22 Plaintiffs here seek to recover "actual, consequential, and incidental damages against Defendants
23 in excess of \$15,000 for each of the above-mentioned causes of action." Compl., at p.28 (Prayer
24 for Relief). This amount is exclusive of the punitive damages, interest, attorney's fees, and costs
25 that are also sought by Plaintiffs. *Id.* Because Plaintiffs assert a total of seven causes of action
26 and seek "in excess of \$15,000 for each," the Complaint's *minimum* damages demand totals

27 _____
28 ¹ Plaintiffs' Complaint incorrectly alleges that Def Con Communications, Inc. is a limited
liability company. Compl. ¶ 17.

1 \$105,000. The amount in controversy plainly exceeds the \$75,000 threshold established by 28
2 U.S.C. § 1332(a).

3 **VENUE**

4 9. Venue lies in the District of Nevada pursuant to 28 U.S.C. §§ 1441(a) and
5 1446(a). This action was originally brought in Eighth Judicial District Court of the State of
6 Nevada in and for the County of Clark, which is embraced by the United States District Court
7 for Nevada.

8 **NOTICE OF REMOVAL**

9 10. Defendants were served with the Summons and Complaint in the Action on
10 August 10, 2023. This Notice of Removal is “filed within 30 days after receipt by the defendant,
11 through service or otherwise, of a copy of [a] . . . paper from which it may first be ascertained
12 that the case is one which is or has become removable,” thus the Notice of Removal is timely
13 pursuant to 28 U.S.C. § 1446(b)(3).

14 11. All Defendants consent to this Notice of Removal.

15 12. This Notice of Removal will be served promptly on Plaintiffs and filed with the
16 Clerk of the Eighth Judicial District Court of the State of Nevada in and for the County of Clark.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 WHEREFORE, Defendant prays that this civil action be removed from the Eighth
2 Judicial District Court of the State of Nevada in and for the County of Clark to the United States
3 District Court for the District of Nevada.

4 DATED this 29th day of August 2023.

5 **HOLLAND & HART LLP**

6
7 /s/ Robert J. Cassity

8 Robert J. Cassity
9 Nevada Bar No. 9779
10 Erica C. Medley
11 Nevada Bar No. 13959
12 9555 Hillwood Drive, 2nd Floor
13 Las Vegas, NV 89134

14 Matthew J. Mertens (*Pro Hac Vice forthcoming*)
15 **PERKINS COIE LLP**
16 1120 N.W. Couch Street Tenth Floor
17 Portland, OR 97209-4128

18 David A. Perez (*Pro Hac Vice forthcoming*)
19 **PERKINS COIE LLP**
20 1201 Third Avenue, Suite 4900
21 Seattle, WA 98101-3099

22 *Attorneys for Defendants*
23 *Jeff Moss and DEF CON Communications, Inc.*
24
25
26
27
28

HOLLAND & HART LLP
9555 HILLWOOD DRIVE, 2ND FLOOR
LAS VEGAS, NV 89134

INDEX OF EXHIBITS

| Exhibit | Description | Page Numbers |
|----------------|-----------------------|---------------------|
| A | Summons and Complaint | 001 - 029 |

HOLLAND & HART LLP
9555 HILLWOOD DRIVE, 2ND FLOOR
LAS VEGAS, NV 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of August, 2023, a true and correct copy of the foregoing **CAPTION** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the United States District Court, District of Nevada's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Kristofer Z. Riklis, Esq.
RIKLIS LAW, PLLC
871 Coronado Center Dr., Suite 200
Henderson, NV 89052
Email: Kristofer@riklislaw.com

Attorneys for Plaintiff
Christopher J. Hadnagy
and Social-Engineer, LLC

/s/ Kristina R. Cole
An Employee of Holland & Hart LLP

30407527_v1

HOLLAND & HART LLP
9555 HILLWOOD DRIVE, 2ND FLOOR
LAS VEGAS, NV 89134